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Note verbale dated 28 October 2004 from the Permanent Mission of Norway to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Norway to the United Nations presents its compliments to the Chairman of the Committee and has the honour to transmit the attached Norwegian national report on the implementation of resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Norway to the United Nations addressed to the Chairman of the Committee

Norwegian national report on the implementation of Security Council resolution 1540 (2004)

1. Norway welcomes the adoption of UN Security Council Resolution 1540 (2004), which addresses the most pressing proliferation challenges of today. The global proliferation of WMD and their means of delivery to states and non-state actors poses a serious threat to international peace and stability. In this context, non-state actors are of particular concern.

2. Norway is committed to the implementation of SCR 1540 and has reviewed a range of legislative and executive measures to ensure compliance with this resolution.

3. Norway reaffirms its strong support for international arms control, disarmament and non-proliferation treaties. Universal adherence to and compliance with these treaties is of great importance. Effective verification mechanisms must also be put into place.

4. Norway is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC) and the Convention on the Physical Protection of Nuclear Material. Norway has ratified and actively supports an early entry into force of the Comprehensive Test Ban Treaty (CTBT). The provisions of all these treaties have been incorporated into Norwegian law.

5. Norway has signed and implemented a Comprehensive Safeguards Agreement with the International Atomic Energy Agency (IAEA). Norway considers comprehensive safeguards and the Additional Protocol to be an effective and necessary verification instrument. Norway has implemented the Additional Protocol and qualified for the IAEA integrated safeguards, which will usher in a system for verification that is more comprehensive, as well as being more flexible and effective.

6. Norway is an active party to the following multilateral export control regimes: the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Zangger Committee, the Australia Group, and the Wassenaar Arrangement. Norway considers these instruments to be very important, particularly since they play a significant role in drawing up agreed control lists and raising international export control standards.

7. Norway is also a signatory to the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC).

8. In the aftermath of 11 September 2001, the multilateral export control regimes have all formally adopted "terrorism clauses" to deny terrorists access to the items that are under

control. There has also been a strong focus on ways to improve awareness of possible attempts by terrorists to procure such items.

9. Norway is actively involved in international co-operation to prevent proliferation of weapons of mass destruction. Norway seeks to co-ordinate its export control practice with that of other countries, including the European Union. Similarly, Norway regularly adheres to arms embargoes adopted by the European Union.

10. Norway has a wide range of legislation in place to prevent the proliferation of weapons of mass destruction. This includes the General Civil Penal Code (1902) (hereinafter referred to as the Penal Code), the Act relating to the the Chemical Weapons Convention (1994) and other relevant legislation as well as supplementary regulations.

11. The Customs Act (1966) and customs regulations (1967) regulate the powers of the customs authorities and provide them with the legal authority to perform their duties at the border or in the customs control zone. Further details on this legislation will be found below.

12. The Ministry of Foreign Affairs is responsible for co-ordinating Norway's implementation of SCR 1540. Several other ministries and government agencies contribute to these efforts within their spheres of responsibility.

13. The Directorate for Customs and Excise and the Police Security Service are the principal enforcement bodies.

14. The customs authorities are responsible for customs control and procedures and for enforcing import and export legislation, including preliminary investigation and surveillance. Any further investigation or prosecution of offences is the responsibility of the police and prosecution authorities.

15. The Police Security Service is responsible for preventing and investigating offences against the legislation on export controls. On the basis of the results of such investigations the Ministry of Foreign Affairs consults with the prosecuting authority to determine formal steps leading to prosecution under the Export Control Act, or under other legislation that provides for more severe penalties.

16. Both the Ministry of Foreign Affairs and the Police Security Service run various activities targeted at exporters and relevant academic institutions to provide information on export controls and encourage compliance. For example, the Police Security Service has established an awareness raising programme that includes regular visits to selected institutions, universities and businesses.

17. States may need technical assistance to comply with the provisions of SCR 1540. Norway is prepared to provide technical and other assistance to support States that lack the legal and

regulatory infrastructure, implementation experience and/or the necessary resources to fulfil their obligations under this resolution.

Comments in relation to the specific issues raised by UNSCR1540:

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

Norway is fully committed to preventing any form of support to non-state actors that seek WMD and their means of delivery.

Norwegian law contains a broad range of provisions designed to prevent the proliferation of weapons of mass destruction and their means of delivery. The provisions are explained in further detail below.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

The following Norwegian legislation is relevant here:

- **Section 152 a of the Penal Code makes it an offence to receive, possess, use, transfer, alter, dispose of or distribute any material consisting of or containing plutonium or uranium without lawful permission and thereby cause a risk of damage to any person's body, health, property or living environment. The penalty is imprisonment for a term not exceeding four years. Accomplices are liable to the same penalty.**

- **Section 153 a of the Penal Code makes it an offence to develop, produce, store or otherwise obtain or possess bacteriological or other biological substances and toxins. The penalty is imprisonment for a term not exceeding ten years. Accomplices are liable to the same penalty.**

- **Section 1 of the Act relating to the implementation of the Chemical Weapons Convention makes it an offence to develop, produce, otherwise acquire, stockpile, transfer, etc., chemical weapons in contravention of the Convention. Any person who contravenes the Act or**

regulations issued pursuant thereto, or an accomplice, is liable to imprisonment for a term not exceeding five years.

- **Sections 147a and b of the Penal Code deal with terrorist acts, which may include the acts mentioned in sections 152 a and 153 a, among others. It is a serious criminal offence to commit such acts or to fund them, directly or indirectly.**

- **The Customs Act and Customs Regulations regulate the powers of the customs authorities to investigate illegal imports and seize, destroy or dispose of any illegally imported substance. Anyone who commits a gross violation of these provisions is liable to imprisonment for a term not exceeding six years.**

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

The following legislation has been enacted:

- **Act relating to implementation of the Chemical Weapons Convention.**

- **Act relating to control of communicable diseases (§ 4-4) and Regulations relating to import, transportation and handling of pathogens (§4-§5): these contain provisions on the secure handling and transportation of pathogens.**

- **Act relating to the Prevention of Fire, Explosion and Accidents involving Hazardous Substances and the Fire Services' Duties connected with Rescue Operations: contains provisions on secure storage and records of stocks of chemical substances.**

- **Regulations relating to the physical protection of nuclear materials.**

- **Norway provides regular reports to the Organisation for the Prohibition of Chemical Weapons (OPCW) in accordance with its obligations under the Chemical Weapons Convention. It also provides regular reports including updated information on national legislation under the Biological and Toxin Weapons Convention.**

- **Norway is implementing the recommendations made by the IAEA assessment mission that was invited to Norway in October 2003.**

(b) Develop and maintain appropriate effective physical protection measures;

The legislation and measures mentioned under operative paragraph 3 a) also apply to physical protection measures.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- **The Customs Act makes the customs authorities responsible for ensuring that all transport of goods across the border is in compliance with current legislation, including the restrictions on imports and exports of strategic goods, services and technology, arms, chemicals etc and parts thereof.**

- **The Customs authorities have extensive powers to access, stop and inspect or search any person, vessel, vehicle or goods that enter or leave the customs control zone.**

- **Goods may if appropriate be seized or confiscated. Physical persons may be taken into custody, and such action is not limited to cases where suspicion is beyond reasonable doubt.**

- **Decisions on whether to prosecute offences against the customs legislation are taken by the prosecuting authority. Breaches of the customs provisions are punishable by a maximum of six years of imprisonment.**

- **The Norwegian customs authorities may also take steps to verify the accuracy and authenticity of any document, declaration or information provided according to the Customs Act. Such controls may take place at the premises of any party who is obliged to provide information.**

- **The customs authorities may exercise their legal powers in the contiguous zone adjacent to Norway's territorial waters to the extent necessary to prevent infringement of customs, fiscal, immigration or sanitary legislation, (cf. Section 4 of the Act on Norway's Territorial Sea and Contiguous Zone and Article 33 of the United Nations Convention on the Law of the Sea). According to the Territorial Waters Act, the breadth of Norway's territorial sea is 12 nautical miles measured from the baselines, while the contiguous zone covers the area between 12 and 24 nautical miles measured from the baselines.**

- **The Police Act sets out the tasks of the Norwegian Police Security Service. These include preventing and investigating the proliferation of weapons of mass destruction and equipment, material and technology for the production or use of such weapons (§ 17 b no. 3).**

- **The Regulations relating to the implementation of control of the export of strategic goods, services and technology (Export Control Regulations) include provisions on arms brokering controls. Trading in, negotiating or otherwise assisting in the sale of military goods and technology from one foreign country to another is not permitted for persons resident or staying in Norway or Norwegian companies, foundations and associations without permission from the Ministry of Foreign Affairs.**

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Norway has established a series of national controls, including:

- **Act relating to control of the export of strategic goods, services, technology, etc. (Export Control Act).**
- **Export Control Regulations.**
- **Guidelines for the Ministry of Foreign Affairs when dealing with applications concerning the export of weapons and military materiel, as well as technology and services for military purposes, drawn up pursuant to the Export Control Act.**
- **Norwegian legislation includes provisions on arms brokering controls; catch-all controls relating to weapons of mass destruction programmes and dual items for military use in destinations where there is a war or threat of war; provisions on technology transfers by any means; and provisions on any services, provided abroad or in Norway for use abroad, that may serve to develop a country's military capability.**
- **The Police Act sets out the tasks of the Norwegian Police Security Service. These include (§ 17b no. 4) preventing and investigating violations of provisions set out in or pursuant to the Export Control Act, the Act on the implementation of binding resolutions in the United Nations Security Council and other similar legislation.**
- **Both the Export Control Act and the Export Control Regulations are being amended in 2004. The amendments to the Act provide the legal authority for Norway to take action with regard to transfers that may facilitate acts of terrorism and introduce controls on brokering of certain sensitive dual use items between two third countries. The amendments to the Regulations will ensure implementation of the new controls in the Act. [As for the provision on brokerage of sensitive items, these will be specified as certain nuclear items as described on the Trigger List. New catch-all controls will also be introduced on transfers of any goods to countries under a UN Security Council, EU or OSCE arms embargo.]**

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons

In its implementation of this resolution Norway is bound by its rights and obligations as a state party to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. Norway is also an active member of the International Atomic Energy Agency and the Organisation for the Prohibition of Chemical Weapons.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Norway attaches great importance to and is a strong supporter of effective multilateral export control regimes, and is working to raise international standards. Norway is an active member of the Nuclear Suppliers' Group, the Australia Group, the Missile Technology Control Regime, the Zangger Committee, and the Wassenaar Arrangement. Norway maintains and regularly updates detailed national export control lists in accordance with its international obligations.

Norway will continue to raise non-proliferation and export control issues and concerns in appropriate international fora, and will continue the ongoing outreach programme both multilaterally and bilaterally.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

- **Norway is prepared on request to provide assistance and share its experience of implementing relevant provisions of SCR 1540, for example with respect to national legislation and regulatory infrastructure.**

- **Norway has for several years been carrying out an active outreach programme under various disarmament, non-proliferation and export control instruments, including visits and**

assistance to a number of countries. These visits have allowed us to address issues connected with effective implementation of non-proliferation and export controls.

- **The G8 Global Partnership against Weapons and Materials of Mass Destruction is a key international non-proliferation instrument. Norway was the first non-G8 country to contribute to the Partnership. Through the Government's Plan of Action for Nuclear Safety Issues, EUR 100 million has been allocated over a ten-year period to the G8 Global Partnership, to increase nuclear safety and reduce proliferation risks. The main focus is on Northwestern Russia.**

- **Norway has contributed USD 90 000 to the IAEA Nuclear Security Fund.**

- **Norway has made significant contributions in support of implementation of the Chemical Weapons Convention, includingUSD 2.5 million for destruction of chemical weapons in the Russian Federation. In addition Norway contributed approximately USD 0.2 million towards implementation of the Chemical Weapons Convention in the Baltic states in 2002-2003. Norway has also provided EUR 0.5 million under the Norway Project (2003-2005) to assist Central Asian countries in implementing Article X of the Chemical Weapons Convention. The project is being carried out in co-operation with the OPCW. Financial support has also been provided for OPCW-sponsored workshops (for example in Latin America) for national implementation of the convention.**

- **Norway has entered into a dialogue with the OPCW with a view to identifying further projects for possible joint implementation. These projects are expected to focus on implementation of Article X (Assistance and Protection) and on implementation of the CWC plans of action for universalisation and national implementation (Article VII).**

- **Norway has provided financial assistance for workshops, seminars and networking to promote implementation of the Biological and Toxin Weapons Convention in Africa and the states of the former Soviet Union.**

- **Norway is in the process of identifying projects, primarily in Central Asia, for possible assistance regarding implementation of the Comprehensive Test Ban Treaty.**

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Norway strongly advocates that all state parties should adhere to and contribute to the universalisation of multilateral treaties whose aim is to prevent proliferation of nuclear, biological or chemical weapons and their means of delivery.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

As mentioned above, Norwegian legislation has been evaluated to ensure that the requirements of operative paragraph 2 have been met. Norway believes that it currently complies with commitments under operative paragraph 2, but will evaluate this on an ongoing basis.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

- **Norway strongly supports bilateral and multilateral initiatives and co-operation to prevent the proliferation of WMD.**

- **Norway actively supports the work of the Organisation for the Prohibition of Chemical Weapons as a state party and as a current member of the Executive Council, through technical assistance provided in collaboration with the OPCW (ref. OP 7) and through national implementation of the Convention.**

- **Norway is a state party to the Biological and Toxin Weapons Convention and is involved in multilateral efforts to strengthen the convention. Norwegian experts play an active role in the deliberations under the Convention.**

- **A safeguards agreement between the IAEA and Norway was concluded on 1 March 1972. The Additional Protocol entered into force on 16 May 2000.**

- **In Norway's view, the Convention on the Physical Protection of Nuclear Material is a key instrument. Norway calls for full universalisation of this Convention, and recognises the need to adapt the Convention in order to meet new challenges. For this reason, Norway is advocating the convening of a diplomatic conference in accordance with Article 20 of the convention.**

- **Norway strongly supports the recently agreed Code of Conduct on the Safety and Security of Radioactive Sources.**

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

The Norwegian authorities have established a good dialogue with industry and the public through outreach efforts, workshops and seminars on non-proliferation and export control efforts and the fulfilment of Norway's obligations under the multilateral instruments in the field of non-proliferation and export control.

Through awareness raising programmes directed towards businesses and the academic community, the Norwegian authorities have taken a proactive and preventative approach to preventing the proliferation of weapons of mass destruction.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery,

Norway is strongly committed to multilateralism and international co-operation in preventing the proliferation of weapons of mass destruction. Norway promotes dialogue and co-operation on non-proliferation in a range of fora so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons and their means of delivery.

These fora are supplemented by the Proliferation Security Initiative (PSI), the Australia Group, the Nuclear Suppliers' Group (NSG), the Missile Technology Control Regime (MTCR), the Zangger Committee and the Wassenaar Arrangement.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

- **Norway is a strong supporter of new initiatives and approaches to prevent the proliferation of weapons of mass destruction.**

- **In addition to the traditional export control regimes, Norway has joined the Proliferation Security Initiative (PSI). This is a global initiative designed to stop shipments of weapons of mass destruction and related material and disrupt international proliferation networks. An inter-agency contact group has been established to co-ordinate Norway's participation in the PSI as well as related non-proliferation issues. As a participant in the PSI core group, Norway is involved in various activities, including expert meetings and exercises.**

- **Norway supports the proposed amendments to strengthen the Convention on the Suppression of Unlawful Acts Against Maritime Navigation (SUA).**

- **Norway is prepared to enter into additional multilateral and bilateral arrangements to further strengthen co-operative action to prevent illicit trafficking in weapons of mass destruction.**

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Norway views the adoption of Security Council Resolution 1540 as a milestone in addressing the proliferation of weapons of mass destruction and the danger that these might fall into the hands of non-state actors.

Norway is fully committed to the implementation of the resolution and intends to evaluate the fulfilment of its obligations on an ongoing basis.

Norway strongly supports the 1540 Committee in its efforts towards global implementation of this resolution. In its work the committee may at any time rely on Norway's full co-operation, and if necessary, its assistance.

Norway may be prepared to support states that may need technical or other assistance in order to implement their obligations under the resolution.